IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/09/2002

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THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO. 13996 OF 2002
and
W.P.M.P.No.18882 OF 2002

P. Arumugam .. Petitioner

-Vs-

1. Government of Tamil Nadu,
Through its Secretary,
Energy (C-3)Department,
Secretariat,
Chennai 600 009.

2. The Chairman,
Tamilnadu Electricity Board,
Chennai 1.

3. The Superintendent Engineer (S.E.)
Mettur Electricity Distribution
Circle, Mettur Dam-1,
Salem District.

4. The Asst. Engineer,
Distribution Town,
Tamilnadu Electricity Board,
Mettur Dam, Salem District. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.A. John Britto

For Respondent-1 : Mrs.N.G. Kalaiselvi
Special Govt. Pleader

For Respondents 2-4: Mr. N. Srinivasan

:O R D E R
Heard Mr. John Britto for the petitioner and the Special Government Pleader for the first respondent and Mr. Srinivasan for the

respondents 2 to 4.

2. The petitioner has sought for a direction to be issued to the respondents 2 to 4 to give power supply connection to the petitioner's house situated in Town Survey No.7/1, Block No.39, near Housing Board Four roads, Michael Thottam (opposite), Mettur after quashing the order dated 12.4.2002 passed by the fourth respondent. Under the said order, 4th respondent has called upon the petitioner to obtain No Objection Certificate from the Housing Board as a condition precedent for obtaining supply of electricity.

3. Learned counsel appearing for the petitioner has submitted that the Electricity Board has no justification to insist upon No objection certificate from the Housing Board.

4. Learned counsel appearing for the respondents 2 to 4 on the other hand relying upon clause 6.04 of the Terms and Conditions of Supply of Electricity has submitted that the petitioner is required to obtained no objection certificate from the Department to which the disputed land belongs. Clause 6.04 being relevant is extracted hereunder:

" 6.04 If supply to any type of service connection in a land owned by a Department other than Revenue Department is applied for, the intending consumer shall produce a 'No Objection Certificate' from the officer who is authorised by that Department to issue such certificate. The intending customer should execute an indemnity bond in the form prescribed by the Board (vide Appendix-II).
If supply to any type of service connection in any other government/poramboke land is applied for, the intending consumer should produce a No Objection Certificate from an officer of the Revenue Department not below the rank of a Tahsildar and also ute an indemnity Bond in the form prescribed by the Board.

The above instructions in para 1 & 2 are applicable in the case of domestic services for un-metered services (ie) free supply only.

Metered power supply to the houses constructed in poramboke lands can be extended, in respect of which house tax has been levied by the local body or whose occupants possess ration cards, as a proof of lawful occupation of the premises subject to execution of an indemnity bond in the form prescribed by the Board and acceptance to pay the initial current consumption deposit at thrice the normal rate. However for such extension of supply to houses constructed in water course porambokes, the safety aspects such as switching off the power during any unforeseen flood conditions should be adhered to."

5. Reliance placed upon by the counsel for the Board on the first two sub-paras of Clause 6.04 appears to be unjustified as admittedly in the present case the petitioner is not seeking for un-metered services, that is to say, for free supply of electricity. It is made clear in third sub-para that the instructions in para 1 & 2 are applicable in the case of domestic

services for un-metered services (ie) free supply only. On the other hand the last sub-para of Clause 6.04 makes it clear that the electricity can be supplied subject to execution of indemnity bond in the form prescribed by the Board. As a matter of fact the Government has also issued instructions to the following effect :-

" I am also directed to state that while effecting the power supply to the buildings constructed on poramboke lands, the following conditions shall be adhered to strictly:
(i) Indemnity Bond shall not confer permanent and full right to the ownership of the land. . . . "

6. In view of the above, the stand of the respondents 2 to 4 that no objection certificate is to be obtained from the Housing Board does not appear to be justified. Accordingly a direction is issued to the respondents 2 to 4 to give power supply connection to the petitioner's house standing on the disputed land subject to fulfilment of other conditions. The power supply connection shall be made within a period of two weeks from the date of making necessary deposit and production of indemnity bond and ration card before the Board. However it is made clear that the Board cannot insist upon any no objection certificate from the Housing Board.

It is also made clear that merely because the power supply would be given, it would not confer ownership over the disputed land . It is stated by the counsel for the petitioner that in fact a civil suit is pending between the petitioner and the District Collector. It is made clear that such suit is to be disposed of on its own merits and the fact that power supply connection now being given to the petitioner cannot be considered as the basis for conferring any right on the petitioner and the petitioner's right is to be judged on the basis of other materials on record.

7. With the above observations, the writ petition is disposed of. No costs. Consequently, WPMP.No.18882 of 2002 is closed.

Index : Yes
Internet : Yes
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To

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